

FILED

APR 30 2003

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROSA MARIA YERA-RIVERA;)	No. 02-70596
HECTOR MANUEL)	
BENITEZ-YERA,)	INS Nos. A77-081-969; A77-081-970
)	
Petitioners,)	
)	MEMORANDUM*
v.)	
)	
JOHN ASHCROFT, Attorney)	
General,)	
)	
Respondent.)	
_____)	

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 10, 2003**
Pasadena, California

Before: BEEZER, FERNANDEZ, and PAEZ, Circuit Judges.

Rosa Maria Yera-Rivera and her son, Hector Manuel Benitez-Yera, petition for review of the decision of the Board of Immigration Appeals denying their applications for cancellation of removal. The only claim they raise on appeal is

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

that INA § 245(i), 8 U.S.C. § 1255(i), allows them to adjust their status while remaining in the United States because Isodoro Benitez-Ponce¹ filed visa petitions on their behalf pursuant to INS § 204(a)(1)(B)(i), 8 U.S.C. § 1154(a)(1)(B)(i). The proper avenue for raising that claim was the filing of a motion with the BIA to reopen proceedings. Ortiz v. INS, 179 F.3d 1148, 1152 (9th Cir. 1999). However, they never raised that issue with the BIA. Thus they failed to exhaust their administrative remedies, and that deprives us of jurisdiction. Khourassany v. INS, 208 F.3d 1096, 1099 (9th Cir. 2000); Rastabadi v. INS, 23 F.3d 1562, 1567 (9th Cir. 1994).

Petition DISMISSED.

¹ Benitez-Ponce is Yera-Rivera's husband and Benitez-Yera's father.